

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jamie Edward Byrd,)	
)	C/A No. 1:11-1193-MBS
Petitioner,)	
)	
vs.)	O R D E R
)	
D. Drew,)	
)	
Respondent.)	
_____)	

Petitioner Jamie Edward Byrd is an inmate in custody of the Federal Bureau of Prisons. He currently is housed at Bennettsville Federal Correctional Institution in Bennettsville, South Carolina. Petitioner, proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on May 18, 2011, seeking relief from a disciplinary conviction.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling. The Magistrate Judge reviewed the petition pursuant to the provisions of 28 U.S.C. § 1915. On September 7, 2011, the Magistrate Judge issued a Report and Recommendation in which she noted that Petitioner's claim more properly is construed as a denial of due process in his disciplinary proceedings. The Magistrate Judge further noted, however, that Petitioner's claim failed to implicated a protected liberty interest so as to give rise to the due process clause. Accordingly, the Magistrate Judge recommended a finding that Petitioner failed to state a cognizable claim under § 2241. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs with the Magistrate Judge’s recommendation and incorporates the Report and Recommendation herein. Petitioner’s § 2241 petition is dismissed without prejudice and without issuance and service of process upon Respondent.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

October 17, 2011

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.